

ENTERED

June 07, 2019

David J. Bradley, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

BAYOU CITY WATERKEEPER,

Plaintiff,

v.

CITY OF HOUSTON,

Defendant.

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CIVIL ACTION NO. 4:18-CV-03369

ORDER

Before the Court is a Motion to Stay Discovery [Doc. No. 23] and the Plaintiff's response thereto. This Court grants in part and denies in part the Motion.

The Motion to Stay Discovery was based upon ongoing settlement discussions in *United States v. City of Houston*, No. 4:18-CV-03368 (S.D. Tex. filed Sept. 20, 2018). The Court is aware of the parties' most recent report in that case, which states that a "proposed settlement is actively advancing through the approval process at DOJ, EPA and the State" [No. 4:18-cv-03368, Doc. No. 37]. This Court does not want to hinder progress that is being achieved to resolve a matter pending in another court. Therefore, it grants the Motion to Stay Discovery until October 31st, 2019.

After October 31st, if a settlement is still not finalized and approved, the Court will consider a renewed motion to stay. If a settlement is finalized and approved by that date, the Court will consider a motion to dismiss. If an approved settlement is in place, the Court recognizes that the Plaintiff may wish to adjust its claims, and the Defendant may wish to adjust the basis for any motion to dismiss. *See, e.g., Envtl. Conservation Org. v. City of Dallas*, 529 F.3d 519, 528 (5th Cir. 2008) (finding that a citizen-suit plaintiff's claims were moot following the entry of a consent decree unless the citizen-suit plaintiff "proves that there is a realistic prospect that the violations

alleged in its complaint will continue notwithstanding the consent decree”). The Court will accordingly allow the parties to adjust their positions at that time. The Motions to Dismiss that are currently pending [Doc. Nos. 7 & 13] are denied without prejudice to the Defendant’s right to re-urge them in accordance with this order, should the Defendant wish to do so.

Signed at Houston, Texas, on this the 7th day of June, 2019.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', written over a horizontal line.

ANDREW S. HANEN
UNITED STATES DISTRICT JUDGE